

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of STANLEY MICHAEL BLACK and DEPARTMENT OF THE ARMY,  
ARMY DEPOT, New Cumberland, PA

*Docket No. 01-1073; Submitted on the Record;  
Issued September 18, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issues are: (1) whether appellant is entitled to reimbursement for travel expenses for his attendants while he is on vacation; and (2) whether appellant is entitled to reimbursement for expenses incurred in renting a vehicle and for repairs to his modified vehicle provided by the Office of Workers' Compensation Programs.

On August 5, 1985 appellant, then a 29-year-old heavy mobile equipment mechanic foreman, sustained a employment-related gunshot wound to the right cerebral hemisphere that resulted in triplegia, which necessitated wheelchair confinement. Following a lengthy rehabilitative process, he returned to work on August 23, 1988 and worked a 20-hour week for a number of years. Appellant retired on July 10, 1993. In addition to wage-loss compensation and medical expenses, the Office paid for modifications to appellant's residence and purchased a modified van for his use. The Office also paid for attendant care.

By letter dated June 12, 2000, appellant requested that the Office issue a formal decision regarding his request for reimbursement for travel expenses for his support personnel while he was on vacation and also for reimbursement for maintenance of his Office-provided van and other transportation expenses including van rental. In a decision dated June 16, 2000, the Office denied appellant's request for reimbursement for travel expenses for his attendants during vacations to Indiana in July 1998 and October 1999 and to Florida in February 2000. The Office also found that appellant was not entitled to reimbursement for van rental while his personal van was undergoing routine maintenance and repair for items other than repairs to the required modifications.

On June 28, 2000 appellant requested a hearing that was held on October 26, 2000 at which time he testified that he had been reimbursed for attendants' expenses during vacations in the past and that he was requesting reimbursement for hotel rooms, meals and salary for two attendants during his vacations. He further testified that he needed his modified van for medical services, to inspect his rental properties and for charity work. Appellant further indicated that no public transportation is available where he lives. He also testified that, while hospitalized for a

nonemployment-related condition<sup>1</sup> in January 2000, his attendants needed a van to transport his wheelchair and that, due to the modifications, his van could only be driven by him. Appellant further indicated that, upon his discharge from the hospital, he could not drive for six to eight weeks. Lastly, appellant testified that he owned a one-third share in the van rental company from which he rented vans.

By decision dated February 12, 2001, an Office hearing representative affirmed the prior decision. The hearing representative specifically found that appellant was not entitled to reimbursement for attendants' travel expenses while appellant vacationed and further found that the Office was responsible for providing transportation for necessary medical services only. Lastly, the hearing representative found that appellant was not entitled to reimbursement for van rental to transport him to and from the hospital because "the fact that he owns a substantial interest in the company creates the appearance that he would benefit in some manner from the arrangement." The instant appeal follows.

The Board finds that appellant is not entitled to reimbursement for travel expenses incurred by his attendants while appellant was on vacation.

Section 8111(a) of the Federal Employees' Compensation Act<sup>2</sup> provides for an allowance to pay an attendant for assistance in personal needs when the Office finds "that the service of an attendant is necessary constantly because the employee is totally blind, or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because of other disability resulting from injury making him so helpless as to require constant attendance."<sup>3</sup> The allowance is intended to pay an attendant for assistance in personal needs such as dressing, bathing or using the toilet; it is not intended to pay an attendant for performance of domestic and housekeeping chores.<sup>4</sup>

As supported by the medical evidence in the instant case, appellant is entitled to payment for services of an attendant for 24 hours a day, 365 days a year. Office procedures, however, provide that expenses for an attendant are only paid as follows: "When a claimant is asked to report for examination and is unable to travel alone, transportation and other reasonable and necessary expenses may be paid for the attendant."<sup>5</sup> The Board thus finds that appellant is not entitled to reimbursement for expenses incurred by his attendant(s) while he is on vacation.

The Board further finds that appellant is entitled to reimbursement for vehicle rental and for repairs for the necessary modifications to his vehicle, as proscribed by Office procedures.

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<sup>1</sup> The record indicates that appellant was hospitalized on January 25, 2000 for partial resection of the right lung due to carcinoma. He was discharged on February 4, 2000.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> 5 U.S.C. § 8111(a).

<sup>4</sup> See *Grant S. Pfeiffer*, 42 ECAB 647 (1991).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Attendant's Allowance*, Chapter 2.812.8.

Appellant has specifically claimed reimbursement for repairs to his van including a charge from Hamilton AIS for \$19.95. The copy quality of the invoice is poor but it appears to be for repair to a tube and tire. Office procedures provide that modifications furnished for a vehicle by the Office will be maintained and repaired at Office expense and may be replaced after normal wear and tear. Other parts of the vehicle will be repaired, maintained and replaced at the owner's expense even if the Office paid for the vehicle.<sup>6</sup> The Board, therefore, finds that repair of a tire is not reimbursable as it is not a part of the vehicle that was specifically modified to meet appellant's needs. Regarding repairs to the van's fuel tank, while Haveco, Inc. indicated that the location of the fuel tank in appellant's van was changed due to the necessary modifications to meet his needs, the company did not indicate that this modification necessitated the repairs billed by invoice dated January 4, 2000 from Forbes Chevrolet. In fact, the invoice seems to indicate that the service provided was under warranty and no charge was made. The record, therefore, does not substantiate that appellant is entitled to reimbursement for these expenses.

Appellant further claimed reimbursement for a rental van for certain periods. Office procedures provide that the Office will reimburse the cost of transportation needed for treatment or examination of the claimant for the accepted injury, unless transportation is furnished by the government.<sup>7</sup> In the instant case, appellant requested reimbursement for van rental for the dates December 30 and 31, 1999 and January 1 to 4, 2000. The record seems to indicate that this was for a period in which his modified van was being repaired. If his personal vehicle is under repair at a time that transportation is needed for medical treatment, the Office is obligated to pay for such transportation. Appellant, however, provided nothing to substantiate that he was undergoing medical treatment during the dates listed above. The Office, therefore, properly did not reimburse the cost of the van rental for the dates December 30 and 31, 1999 and January 1 to 4, 2000.

The Board further notes that, following appellant's hospitalization from January 25 to February 4, 2000 for a nonemployment-related condition, appellant's doctor advised that he could not drive for six to eight weeks. Appellant would, therefore, be entitled to reimbursement for expenses incurred for necessary travel for medical treatment during this period. The record indicates that van rental was authorized to transport appellant to and from the hospital. Again, however, appellant did not provide evidence to substantiate visits for medical treatment after his discharge from the hospital, which is required for the Office to provide reimbursement.

Lastly, The Board notes that there is no prohibition under the Act requiring that a claimant cannot be reimbursed for services provided by a company in which he has a financial interest.

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<sup>6</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *General Criteria, Vehicle Modifications*, Chapter 2.1800.5(a)(1) (September 1994).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Medical Services and Supplies*, Chapter 3.400.10 (April 1992).

The decision of the Office of Workers' Compensation Programs dated February 12, 2001 is hereby affirmed as modified.

Dated, Washington, DC  
September 18, 2002

Alec J. Koromilas  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member